

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

PROGRESSIVE AMERICAN
INSURANCE COMPANY,

Plaintiff,

vs.

CIVIL ACTION NUMBER:2:06cv717-
1D

CAROL THORN; JOLEEN LEEA
COLON; DALE EUGENE
KIRKINDOLL; ELIZABETH S.
KIRKINDOLL; THOMAS HOLT
KIRKINDOLL; JAMES W. GRIFFIN
SANDRA L. GRIFFIN; PATRICK A.
BELT; CHRISTOPHER B. BELT;
GENE STEGMAIER; ESTATE OF
WILLIAM R. KLAUSS, a deceased
minor; ESTATE OF CHERETY THORN)
a deceased minor; LV STABLER
MEMORIAL HOSPITAL; BRPT LAKE)
REHABILITATION CENTER; BUTLER)
COUNTY EMERGENCY MEDICAL
SERVICES;

Defendants.

AMENDED COMPLAINT

Comes now the plaintiff, Progressive American Insurance Company ("Progressive"), pursuant to Rule 15 of the Federal Rules of Civil Procedure, and amends its interpleader complaint previously filed by it as follows:

Comes now the plaintiff, Progressive American Insurance Company (“Progressive”), pursuant to Rule 22 of the Federal Rules of Civil Procedure, and files its interpleader complaint as follows:

1. Progressive is an insurance company incorporated and organized under the laws of the state of Ohio, having its principal place of business in the state of Ohio.

2. Progressive issued a policy of automobile insurance to the defendant Carol L. Thorn (“Thorn”). She is over the age of 19 years and is believed to be a resident citizen of the state of Georgia.

3. The defendant, Joleen Leea Colon (“Colon”) was the driver of a rental vehicle involved in an accident. She is the daughter of Thorn. Colon is over the age of 19 years and is believed to be a resident citizen of the state of Florida.

4. Colon was involved in an accident on I-65 near Evergreen in Butler County, Alabama. The accident occurred on December 26, 2004 when a vehicle driven by Colon crossed the center line of the interstate, striking a vehicle driven by Dale Eugene Kirkindoll (“Kirkindoll”) which, in turn, struck a vehicle driven by James W. Griffin (“Griffin”).

5. The defendant Kirkindoll is over the age of 19 years and is a resident citizen of the state of Louisiana. Kirkindoll’s passengers were the defendants, Elizabeth S. Kirkindoll and Thomas Holt Kirkindoll. They are also over the ages of 19 years and are resident citizens of the state of Louisiana. They were all injured in the accident.

6. The defendant Griffin is over the age of 19 years and is a resident citizen of the state of Georgia. Griffin's passengers were the defendants, Sandra L. Griffin, Patrick A. Belt, Christopher B. Belt, and Gene E. Stegmaier. They are all over the age of 19 years and are resident citizens of the state of Georgia.

7. Colon's passengers were her minor children, William R. Klauss and Cherety Thorn. Unfortunately, they were both killed in the accident. They are believed to have been resident citizens of either the state of Florida or the state of Alabama at the time of this accident. Progressive will file an amended complaint which substitutes the personal representatives of the minor children after that personal representative has been determined or it will request the court to appoint an administrator ad litem to protect the interests of their estate.

8. The remaining defendants are corporations incorporated and organized under the laws of either the state of Alabama or the state of Louisiana, having their principal places of business in those states. They are not incorporated and do not have their principal place of business in Ohio where Progressive is located. It is believed that they have a valid hospital liens or subrogation claims as a result of treatment rendered to some of the injured defendants.

9. Progressive hereby amends its complaint to add Baton Rouge Clinic, Our Lady of the Lake Regional Medical Center, Baton Rouge Orthopaedic Clinic, LLC, State Farm Health Insurance, GEMS, Inc., Schumacher Medical Group of Alabama, and Southern National Life Insurance Co., d/b/a Benefit Management Services as defendants in this case.

It is believed that these corporations may have valid subrogation claims or hospital liens arising out the medical treatment of some of the defendants involved in this accident.

10. Progressive has received competing claims to its policy limits under the automobile policy issued to Thorn. Thus, it will deposit with the clerk of this court its checks in the amount of \$100,000 which represents the liability coverage available under the policy.

11. The defendants should be required to assert any claims which they have to the policy proceeds, including any claims for subrogation claims or hospital liens.

WHEREFORE, Progressive requests the court to take jurisdiction of this case and to grant it the following relief:

A. Require the defendants to answer this complaint of interpleader and set forth their respective rights to the policy proceeds;

B. Enjoin and restrain the defendants from pursuing any proceedings in any state or federal court for payment of the policy proceeds without first obtaining permission from this court;

C. Determine the rights of the defendants to the insurance proceeds and then direct the clerk to distribute the funds as designated by the court; and

D. Discharge Carol L. Thorn and Joleen Leea Colon from any further liability as a result of the accident; and

E. Grant Progressive such other or different relief to which it may be entitled.

/s/ R. Larry Bradford

R. Larry Bradford, Attorney for
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OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have this the 9 day of July 2007, served a copy of the foregoing to all attorneys of records by placing a copy of same in the United States mail, postage prepaid, and properly addressed as follows:

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